



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER OF PATENTS AND TRADEMARKS
Washington, D.C. 20231
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/626,576	07/27/2000	Norman Hay	29752/36543A	9590

7590

12/02/2002

James A Flight
Marshall O'Toole Gerstein Murray & Borun
6300 Sears Tower
233 South Wacker Drive
Chicago, IL 60606-6402

EXAMINER

ROBINSON BOYCE, AKIBA K

ART UNIT

PAPER NUMBER

3623

DATE MAILED: 12/02/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/626,576

Applicant(s)

HAY ET AL.

Examiner

Akiba K Robinson-Boyce

Art Unit

3623

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 03 September 2002.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-35 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-35 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☒ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____.
- 4) ☐ Interview Summary (PTO-413) Paper No(s) _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

DETAILED ACTION

Status of Claims

1. In response to the communication received on 9/3/02, the following is a final office action. Claims 1-35 are pending in this application and have been examined on the merits. Amendments added to the claims have been addressed in the rejection. Claims 1-35 are rejected. The previous rejection has been maintained.

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claims 1-4, 6, 9, 10-22, 24, 27-35 are rejected under 35 U.S.C. 102(b) as being anticipated by Rawlins.

As per claims 1, 18, 21, Rawlins discloses:

A database...a farm identifier in communication with the database.../developing a set of farms.../wherein the step of developing the set of farms is performed by

Art Unit: 3623

accessing a database...(Col. 2, lines 17-19 w/ Col. 3, lines 50-52, where the examiner is interpreting the 'sample points' of Rawlins as the farm of the present invention and the 'values in longitude and latitude' of Rawlins as the farm identifiers of the present invention and the database as 'storage' in Rawlins);

A competition analyzer cooperating with the farm identifier to estimate profits.../estimating profits...(Col. 7, lines 15-28);

An offer developer cooperating with the competition analyzer to determine possible offers to be made to the farms in the set of farms.../determining possible offers...(Col. 6, lines 7-10, and lines 31-39, where the field positions are in competition and the offer developer is analogous to the marker dispenser since it inserts a crop marker into the crop stream right before the crop marker is correlated or allocated to the selected field position);

based at least in part upon the estimated profits to be earned for growing the at least one crop...(Col. 5, lines 42-45, Col. 7, lines 15-28, where the offer is based on a match between the selected field position and the actual field position, which is ultimately based on the quality of the crop which is co-dependent with the profits for a crop);

A farm selector cooperating with the offer developer to select farms.../selecting farms...(Col. 6, lines 37-39, where the farm selector is analogous to the crop marker and the farm is analogous to the field or the crop stream in Rawlins).

As per claims 2, 19, Rawlins discloses:

Wherein the farm selector selects farms.../wherein the step of selecting farms is based upon at least one of : the estimated profits developed...(Col. 7, lines 15-28).

As per claims 3, 20, Rawlins discloses:

Wherein the farm identifier identifies the set of farms based upon at least one of ...farm capability to grow the crop of interest.../wherein the step of developing the set of farms performed by considering at least one of: ...farm capability to grow the crop of interest ...(Col. 6, line 48-Col. 7, line 2).

As per claims 4, 22, Rawlins discloses:

Wherein the database comprises at least one of: a product database...(Col. 6, lines 11-14, [wherein the examiner is interpreting the crop as the product]).

As per claims 6, 24, Rawlins discloses:

Wherein at least one of the at least one database comprises a local database...(Fig. 1 [17]).

As per claims 9, 27, Rawlins discloses:

A profit estimator for estimating a profit.../estimating a profit...(Col. 7, lines 15-28);

A product selector cooperating with the profit estimator.../selecting a most profitable crop...(Col. 6, lines 31-36).

As per claim 10, 28, Rawlins discloses:

A production estimator.../estimating a quantity of the crop...(Col. 2, lines 12-15);

The following is inherent with Rawlins' patent because Rawlins teaches a pricing engine which correlates with the quality of the crop (See Col. 9, lines 5-13). Since both quality

Art Unit: 3623

and quantity are measures of the item being produced, it would also make sense to utilize the quantity in connection with the pricing engine:

A pricing engine cooperating with the production estimator to develop a price to be offered the farm of interest to grow the quantity of the crop of interest estimated by the production estimator.../developing a price to be offered the farm of interest to grow the estimated quantity of the crop of interest.

As per claim 11, 29, Rawlins discloses:

Wherein the offer developer further comprises a risk identifier.../identifying a risk factor...and adjusting the price...(Col. 7, lines 15-23, where the examiner is interpreting where the quality differs in Rawlins ads the risk of the present invention).

As per claims 12, 30, Rawlins discloses:

A farm screener.../selecting a preferred set of farms...(Col. 5, lines 40-45, where the examiner is interpreting where the quality differs in Rawlins ads the risk of the present invention);

An elevator/loader profiler.../developing an aggregate economic profile...(Col. 7, lines 19-22, where the examiner is interpreting the resources of Rawlins as the elevator/loader of the present invention);

An elevator/loader selector.../selecting farms to receive an offer to grow the crop of interest...(Col. 6, lines 37-39).

As per claims 13, 31, Rawlins discloses:

Art Unit: 3623

Wherein the competition analyzer estimates the profits to be earned by farms in the set of farms fro growing.../wherein the step of estimating profits further comprises the step of estimating the profits to be earned by farms... (Col. 6, line 60-Col. 7, line 2).

As per claims 14, 32, Rawlins discloses:

Wherein, for a farm in question associated with more than one elevator/loader.../wherein, for a farm in question associated with more than one elevator/loader, the step of determining possible offers comprises determining the possible offer...with a highest relative profit...(Col. 9, lines 5-13).

As per claims 15, 33 Rawlins discloses:

Wherein the offer developer determines the possible offers.../wherein the step of determining possible offers is based in part upon at least one risk factor...(Col. 5, lines 49-66, Col. 6, lines 31-39).

As per claims 16, 17, 34 and 35, Rawlins discloses:

Wherein the aggregate economic profiles of the elevators/loaders are based at least in part upon cost and risk...(Col. 7, lines 19-23 w/ Col. 9, lines 5-13).

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 5, 7, 23, 25, are rejected under 35 U.S.C. 103(a) as being unpatentable over Rawlins (US Patent 5,845,229), and further in view of Monson (US Patent 5,689,418) as cited by the applicant.

As per claims 5, 23, Rawlins fails to disclose the following, however Monson discloses:

Wherein at least one of the at least one database comprises an on-line database...(Col. 7, lines 41-47).

It would have been obvious to one of ordinary skill in the art to have an on-line database with the motivation of ensuring accessibility to information in the database by a wide variety of people.

As per claims 7, 25, Rawlins fails to disclose the following, however Monson discloses:

Wherein the on-line database comprises an on-line exchange...(Col. 3, lines 16-19).

It would have been obvious to one of ordinary skill in the art for the on-line database to comprise an on-line exchange with the motivation of ensuring that information gets traded at a reasonable rate in a reasonable amount of time to a wide variety of people.

6. Claims 8, 26, are rejected under 35 U.S.C. 103(a) as being unpatentable over Rawlins (US Patent 5,845,229), and further in view of Dietrich et al (US Patent 5,630,070).

Art Unit: 3623

As per claims 8, 26, Rawlins fails to disclose the following, however Dietrich et al discloses:

An elevator/loader discriminator for developing the set of farms by identifying.../identifying elevators/ loaders that cannot handle the crop of interest...(Col. 33, lines 35-51, where the examiner is interpreting the raw material parts of Dietrich et al as the elevator/loader of the present invention]);

A farm discriminator.../eliminating farms from the set of farms...eliminating farms that cannot grow the crop...(Col. 33, lines 56-59).

It would have been obvious to one of ordinary skill in the art to discriminate against resources used with the motivation of filtering out unnecessary or unwanted items used to complete a task.

Response to Arguments

7. Applicant's arguments filed 9/3/02 have been fully considered but they are not persuasive.

As per claims 1 and 18, the applicant argues that Rawlins fails to disclose or suggest a method or apparatus that determines possible offers to be made to farms to grow a crop of interest. However, Rawlins discloses this feature in Col. 6, lines 7-10 and lines 31-39 where the field positions are in competition and the offer developer is analogous to the marker dispenser since it inserts a crop marker into the crop stream right before the crop marker is correlated or allocated to the selected field position. In

Art Unit: 3623

Rawlins, once a match is determined, the position of the harvester, which will grow a crop on the particular selected field position is determined. In this case, the offer developer is analogous to the marker dispenser, the possible offers relate to the different field positions that can be selected in order to grow a crop, and the farms are analogous to the fields in Rawlins since these fields are being selected to grow crops on.

The applicant also argues the combination of the following three references used in the rejection: Rawlins (US 5,845,229), Monsoon (5,689,418) and Dietrich et al (5,630,070). However, the references are combinable since all three disclose the optimization of resources/resource allocation. All three references also go into detail about determining maximum yield or outcome. Therefore the combination of these three references is valid.

Conclusion

8. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any

Art Unit: 3623

extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Akiba K Robinson-Boyce whose telephone number is 703-305-1340. The examiner can normally be reached on Monday-Friday 8:30am-5pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Tariq Hafiz can be reached on 703-305-9643. The fax phone numbers for the organization where this application or proceeding is assigned are 703-746-7238 [After final communications, labeled "Box AF"], 703-746-7239 [Official Communications], and 703-746-7150 [Informal/Draft Communications, labeled "PROPOSED" or "DRAFT"].

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-305-3900.



A. R. B.
November 26, 2002



TARIQ R. HAFIZ
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 3600